(22)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.M.P.No. 230/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

SB: HON'BLE SHRI DHIRENDRA MISHRA, J.

PETITIONER Sayeed Khan, S/o Iqbal Khan, aged about 50 years, Occupation Service (Constable) Police Department, R/o Gram Parradand (Mominpura) Police Station and Tehsil Ambikapur, District Sarguja (CG)

Vs.

RESPONDENT Smt. Khairunnisha, D/o Barkat Ali, aged about 46 year, Occupation Labouring and Housewife, R/o village Narkeli, Police Station and Tehsil Baikunthpur, District Koriya (CG)

22-8-2007

Smt. Hameeda Siddiqui, Advocate for the petitioner.

Heard.

2. The petitioner husband has filed this petition under Section 482 of Cr.P.C. against the impugned order dated 2-4-2007 passed in Criminal Revision No. 66/2006 whereby learned Sessions Judge, Koriya has confirmed the order dated 2-3-2006 passed in Misc. Criminal Case No. 100/2003 by the Chief Judicial Magistrate whereby the Chief Judicial Magistrate while allowing the petition of the non-applicant/wife under Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986 (hereinafter referred to as the Act of 1986) has directed the applicant to pay the amount of *Meher* fixed at the time of marriage Rs. 1000/- and two *Dinar,* to return the value of articles obtained by the wife as dowry Rs. 10,000/-, value of ornaments obtained by the applicant at the time of marriage

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr. M.P. No. 230/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Rs. 5000/-, value of the presents Rs. 5000/- and also the amount of maintenance for Iddat period of Rs. 10,000/-. Apart from this, the applicant has also been directed to pay Rs. 300/- per month till the non-applicant is remarried.

3. Learned counsel for the petitioner submits that the parties to the proceedings are governed by the Act of 1986 and Section 3(1)(a) of the Act of 1986 restricts the liability of the husband towards the divorced wife only to the extent for Iddat period and, therefore, the order impugned is bad as the same is in contravention of Section 3(1)(a) of the Act of 1986.

4. From perusal of the impugned order, it is observed that the same has been passed as per the interpretation given by the Supreme Court in the matter of ***Danial Latifi and another –v- Union of India*** reported in **AIR 2001 SC 3958** wherein in para 36, it has been concluded as under:-

> '36. *While upholding the validity of the Act, we may sum up our conclusions :*
>
> *Court holds that :*
>
> 1. *A Muslim husband is liable to make reasonable and fair provision for the future of the divorced wife which obviously includes her maintenance as well. Such a reasonable and fair provision extending beyond the iddat period must be made by the husband within the iddat period in terms of Section 3(1)(a) of the Act.*
>
> 2. *Liability of Muslim husband to his divorced wife*

(24)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.M.P.No.230/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

arising under Section 3(1)(a) of the Act to pay maintenance is not confined to iddat period.

3. *A divorced Muslim woman who has not remarried and who is not able to maintain herself after iddat period can proceed as provided under Section 4 of the Act against her relatives who are liable to maintain her in proportion to the properties which they inherit on her death according to Muslim law from such divorced woman including her children and parents. If any of the relatives being unable to pay maintenance, the Magistrate may direct the State Wakf Board established under the Act to pay such maintenance.*
4. *The provisions of the Act do not offend Articles 14, 15 and 21 of the Constitution of India.'*

5. Since the order impugned has been passed in accordance with the interpretation given by the Supreme Court in the matter of **Danial Latifi and another** (supra), there is no illegality or infirmity in the impugned order and the same does not call for any interference in exercise of jurisdiction under Section 482 Cr.P.C.

6. The petition being devoid of substance is liable to be dismissed and it is accordingly dismissed.

Sd/-
Dhirendra Mishra
Judge

PJ-